

Docket No.: 5000-0133PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jordi TORMO I BLASCO et al.

Application No.: 10/549,936

Confirmation No.: N/A

Filed: September 20, 2005

Art Unit: N/A

For: 2-SUBSTITUTED PYRIMIDINES

Examiner: Not Yet Assigned

LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


Sir:

Subsequent to the filing of the above-identified application on September 20, 2005, attached hereto is an English translation of the International Preliminary Examination Report (Form PCT/IPEA/409) that should be made of record in the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or to credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Dated: April 17, 2006

Respectfully submitted,

By 
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Attachment(s)

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 72.2)

From the INTERNATIONAL BUREAU of Intellectual Property

To:

08. März 2006

BASF AKTIENGESELLSCHAFT
67056 Ludwigshafen
ALLEMAGNE

1. AST/V BT.

EZ: Phase beendet, 01.09.05

Date of mailing (day/month/year)
02 March 2006 (02.03.2006)

Applicant's or agent's file reference
0000054433

IMPORTANT NOTIFICATION

International application No.
PCT/EP2004/003335 ✓

International filing date (day/month/year)
30 March 2004 (30.03.2004)

Applicant

BASF AKTIENGESELLSCHAFT et al

1. Transmittal of the translation to the applicant.



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

KR

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Agnes Wittmann-Regis

Facsimile No.+41 22 740 14 35

Facsimile No.+41 22 338 89 70

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003335

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
 - ☐ publication of the international application (Rule 12.4)
 - ☐ international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☐ the international application as originally filed/furnished

- ☒ the description:

pages 1-64 _____ as originally filed/furnished

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

- ☒ the claims:

nos. 1-8 _____ as originally filed/furnished

nos.* _____ as amended (together with any statement) under Article 19

nos.* _____ received by this Authority on _____

nos.* _____ received by this Authority on _____

- ☐ the drawings:

sheets _____ as originally filed/furnished

sheets* _____ received by this Authority on _____

sheets* _____ received by this Authority on _____

- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages _____

☐ the claims, nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages _____

☐ the claims, nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (*specify*): _____

☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003335

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-8	YES
	Claims		NO
Inventive step (IS)	Claims	1-8	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-8	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

1. The following documents were taken into consideration:

D1: WO 01/96314 A (BASF AG) 20 December 2001
(2001-12-20)

D2: EP-A-0 251 083 (BASF AG) 7 January 1988
(1988-01-07)

D3: WO 02/074753 A (RHEINHEIMER JOACHIM; BASF AG
(DE); GEWEHR MARKUS (DE); LORENZ GISELA)
26 September 2002 (2002-09-26)

2. The subject matter of the current application appears novel over the documents cited in the international search report. The claimed derivatives differ from the compounds disclosed in D1 by virtue of the R³ group, from the compounds of formula (I) disclosed in D2 by virtue of the R² group, from the compounds disclosed in D3 by virtue of the R¹ substituents and can be considered a novel selection from the compounds of formula (VI) from D2.

Claims 1-8 therefore appear to meet the

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

requirements of PCT Article 33(2).

3. The fungicides disclosed in documents D1 and D2 are the closest prior art.

The problem of interest can be considered that of developing further fungicides which are more effective than known compounds.

The applicant has shown the fungicidal effect of some of the claimed derivatives on pages 63 and 64, but a person skilled in the art would expect this effect given that the prior art compounds are structurally very similar. The applicant submitted details of comparative tests with the letter of 31 January 2005, in which a compound as per the application was selected which as well as being structurally very similar was also sterically very similar to the compounds claimed in D1. On the basis of that test data, which shows a surprising improvement in effectiveness, an inventive step can be acknowledged.

Claims 1-8 therefore appear to meet the requirements of PCT Article 33(3).

4. There are no objections under PCT Article 33(4) with respect to claims 1-8.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003335

Box No. VI Certain documents cited

1. Certain published documents (Rule 70.10)

Application No.
Patent No.Publication date
(day/month/year)Filing date
(day/month/year)Priority date (valid claim)
(day/month/year)

2. Non-written disclosures (Rule 70.9)

Kind of non-written disclosure

Date of non-written disclosure
(day/month/year)Date of written disclosure
referring to non-written disclosure
(day/month/year)

See Supplemental Box

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box VI:

Document D4 (HODGETTS, KEVIN J. ET AL: "2-Aryl-3,6-dialkyl-5-dialkylaminopyrimidin-4-ones as novel CRF-1 receptor antagonists" BIOORGANIC & MEDICINAL CHEMISTRY LETTERS, 13(15), 2497-2500 CODEN: BMCLE8; ISSN: 0960-894X, 2003, XP002294675), which is listed as a P document in the search report, is not taken into consideration, since the claimed priority date can be acknowledged with respect to the relevant parts of the current application.